

THE HON'BLE SRI JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT APPEAL No.1074 of 2006

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JUDGMENT: (Per Hon'ble Sri Justice Dilip B. Bhosale)

This Writ Appeal is directed against the order dated 25.08.2005 passed in W.P.No.17484 of 2001, whereby the said Writ Petition filed by the appellant has been dismissed. In the Writ Petition, the appellant had impugned the letter dated 14.05.2001 issued by the first respondent company and for a direction not to recover further penal rent and to return the penal rent already recovered from his salary.

The appellant is an employee of the respondent-company. According to the company, the appellant was in unauthorized occupation of the company's quarters, along with several other employees of the company, and hence the impugned action was initiated against him and other employees.

Several Writ Petitions were filed in this Court, which were disposed of by the common order dated 20.01.2000. While disposing of the Writ Petitions, this Court constituted a Committee to go into the questions whether each of the employees has completed the requisite number of twelve years of service in the company, so as to avail the benefit of settlement dated 31st July, 1997, and whether the petitioners were in unauthorized occupation for a period of three years as on 31.10.1997. This Court had also directed the company the procedure to be adopted for conducting the enquiry. From perusal of the order it appears to us that the learned Judge while disposing of the batch of Writ Petitions carved out three categories of employees: i) the employees who were entitled for the benefit of settlement dated 31.07.1997 and were in unauthorized occupation of the quarters; ii) the employees who were not claiming benefit of settlement or not covered by the settlement but

claimed that they were in authorized occupation of the quarters; and iii) the employees who were not covered by the settlement and were found to be in unauthorized occupation of the quarters. In this backdrop the following observations were made in the concluding paragraphs of the order dated 20.01.2000.

“It is agreed at the Bar that the deduction of penal rent at the rate of Rs.1,500/- per month would depend upon the result of the enquiry and findings of the Committee of the Officer.

For the aforesaid reasons, this batch of writ petitions are disposed of directing the respondent company herein not to deduct any penal rent from the salaries of the petitioners and other employees until a decision is taken by the Committee of the Officers constituted for the purpose of making an enquiry in terms of the aforementioned directions. However, it shall be open to the company to deduct the penal rent from the salaries of such of those petitioners and employees who are not entitled for the protection of the settlement dated 31st July, 1997 and who continued to be in unauthorized occupation of the residential staff quarters with retrospective effect. Likewise, such of those petitioners and other employees who are found to be entitled for the protection of the settlement, are entitled for the return of penal rents so collected from them, and the company shall have to repay the same to the eligible petitioners and other employees. It shall be open to the respondent company to take such further steps as it may wish to do so to secure the eviction of the staff quarters from the possession of such unauthorized occupants who are not entitled for the protection of the settlement.”

It is not in dispute that the case of the appellant is covered by the settlement dated 31st July, 1997, and that he was in unauthorized occupation of the residential quarter for more than three years. The Committee, as per the directions of this Court vide order dated 20.01.2000, recorded its finding in respect of each of the petitioners and the quarters in occupation of the employees and on the basis thereof the impugned letter dated 14.05.2001 was issued by which the appellant was directed to pay penal rent of Rs.400/- per month for a period of three years i.e., Rs.14,400/-. Before, issuing the impugned letter/order dated 14.05.2001 the respondent company had already recovered from the appellant a sum of Rs.8,900/- and the HRA amount of Rs.7,050/-. Thus, the company informed the appellant by the impugned letter that he was

liable to pay Rs.12,550/- and that the company would recover the same from his salary at the rate of Rs.600/- per month from the month of May, 2001. The report of the Committee constituted by the order of this Court has not been challenged either by the petitioner or any other employee. The appellant is in possession of the quarter till this date. In this backdrop the sole contention urged by the learned Counsel for the appellant that since the appellant is covered by the settlement he is not liable to pay any penal rent and is entitled for the return of the penal rent collected from him, is not correct and must be rejected. Learned Judge while disposing of the Writ Petition in concluding paragraphs of the impugned order observed thus:

“ “For the aforesaid reasons, this batch of writ petitions are disposed of directing the respondent company herein not to deduct any penal rent from the salaries of the petitioners and other employees until a decision is taken by the Committee of the Officers constituted for the purpose of making an enquiry in terms of the aforementioned directions. However, it shall be open to the company to deduct the penal rent from the salaries of such of those petitioners and employees who are not entitled for the protection of the settlement dated 31st July, 1997 and who continued to be in unauthorized occupation of the residential staff quarters with retrospective effect. Likewise, such of those petitioners and other employees who are found to be entitled for the protection of the settlement, are entitled for the return of penal rents so collected from them, and the company shall have to repay the same to the eligible petitioners and other employees. It shall be open to the respondent company to take such further steps as it may wish to do so to secure the eviction of the staff quarters from the possession of such unauthorized occupants who are not entitled for the protection of the settlement.”

So, a perusal of the above Judgment shows that if the employees are found to be entitled for protection of the settlement, they are entitled for the return of the penal rents so collected from them and the company shall have to repay the same to the eligible employees. Basing on the said Judgment the Company issued Circular dated 8.11.2000, where under certain steps have to be taken for regularization of allotment of quarters in the names of the Workmen subject to payment of Rs.14,400/- towards the penal rent to be recovered for a period of three years. **Though the petitioner was in illegal occupation, still he is covered by the settlement and in pursuance of the Circular dated 8.8.1998 the penal rent for a period of three years has to be recovered at the rate of Rs.400/- per month.**

It is clearly stated in the impugned Proceedings that the Company has already recovered an amount of Rs.8,900/- towards the penal rent and the balance amount of Rs.12,550/- will be recovered from his salary at the rate of Rs.600/- per month, commencing from the month of May,2001. Since the Committee was constituted in pursuance of the

directions of this Court to decide allotment of quarters to the employees, but subject to fulfillment of payment of penal rent of Rs.14,400/-, it cannot said to be in contrary to the settlement arrived. The Workman cannot claim hot and cold blow at one time, when they were in illegal occupation of the quarter and having received the House Rent Allowance from the Company. **Perhaps that is the reason why they have restricted the payment of penal rent for a period of three years as per the Circular dated 8.8.1998, and as a matter of fact the Committee has given certain steps to be taken by the Management for regularization of allotment of quarters in their names. The said committee report has not been under challenge. Therefore, the impugned order does not suffer from any infirmities, so as to call for interference from this Court.”**

(emphasis supplied)

Thus, we do not find any merit in the Writ Appeal, and the Writ Appeal is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. No costs.

(DILIP B. BHOSALE, J)

(A.RAMALINGESWARA RAO, J)

20.01.2015

vs